

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**ALLSTATE VEHICLE AND PROPERTY
INSURANCE COMPANY a/s/o SUSAN
BARNES,**

Plaintiff,

V.

**THE STEELSTONE GROUP, LLC.,
INDIVIDUALLY and D/B/A GOURMIA,**

Defendant.

[illegible]

CIVIL ACTION NO. 3:19-CV-02848-L

DEFENDANT'S FIRST AMENDED ANSWER

The Steelstone Group LLC d/b/a Gourmia (“Defendant”), Defendant in the above entitled action, files its First Amended Answer and would show:

I. GENERAL DENIAL

Defendant generally denies each and every, all and singular, the allegations in Plaintiff's Original and First Amended Petitions and, since they are allegations of fact, requests that the Plaintiff be required to prove them by a preponderance of the credible evidence as is required by law.

II. AFFIRMATIVE DEFENSES

Defendant affirmatively pleads that the occurrence in question and Plaintiff's damages, if any, were caused, in whole or in part, by the negligence, intentional acts, and/or comparative fault and/or proportionate responsibility of Plaintiff's subrogor, and/or other third parties. Therefore, Defendant requests that the Court reduce any judgment, if any judgment is assessed

against Defendant, by the degree of such negligence of Plaintiff's subrogor and/or other third parties.

Defendant specifically pleads that Plaintiff's damages, if any, are the result of an intervening, superseding, or new and/or independent cause(s) for which Defendant has no responsibility. Defendant further pleads that Plaintiff's damages, if any, were caused by a new and independent cause or causes not reasonably foreseeable by Defendant. These new and/or independent causes(s) include, but are not limited to, the actions of Plaintiff that were not reasonably foreseeable to this Defendant. This new and/or independent cause(s) was the immediate and efficient cause of damages alleged by Plaintiff, if any. The acts or omissions alleged by Plaintiff against Defendant, which Defendant denies, were, if there were any, remote and not the proximate or producing cause of any of any of Plaintiff's alleged damages.

Defendant affirmatively pleads that on the occasion in question, Plaintiff's subrogor failed to use the product as a reasonably prudent person would have under the same or similar circumstances and that said failure was a proximate cause, or in the alternative the sole proximate cause, of the occurrence in questions and Plaintiff's damages, if any.

Defendant further pleads that it is entitled to ask the trier of fact to determine the responsibility of any and all claimants, settling parties, defendants, responsible third parties, and contribution defendants, pursuant to TEX. CIV. PRAC. & REM. CODE 33.001 *et. seq.* or other statute or common law, for causing the harm, if any, complained of and determined by the trier of fact. Defendant would show that the negligence of the Plaintiff and/or other parties and/or responsible third parties was a proximate cause of the occurrence in question. Accordingly, Defendant is entitled to the submission of the issue of Plaintiff's proportionate and contributory negligence and/or other parties', and responsible third parties' contributory negligence to the finder of fact.

WHEREFORE, Defendant requests that upon trial and hearing hereof, Plaintiff recovers nothing from Defendant, and that Defendant recover all costs of court and such other and further relief at law or in equity to which it may be justly entitled.

Respectfully submitted,

THOMPSON, COE, COUSINS & IRONS, L.L.P.

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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on April 13, 2020, a true and correct copy of the foregoing document was served upon all known counsel by electronic service in accordance with the Federal Rules of Civil Procedure:

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/s/ Veronica Diaz-Arrastia

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